

United States District Court
Southern District of Texas
Houston Division

United States Courts
Southern District of Texas
FILED

MAR 29 2019

David J. Bradley, Clerk of Court

Calvin Edward Weaver
Plaintiff

VS

Civil Action Case # 4:18-cv-1652

Bryan Collier, ET AL.
Defendant

Response to Protective order for Dvorsu and Gonzalez

Weaver was an inmate at the C.T. Terrell Unit in Brazoria Co., Rockport, Texas from June 2008 until January 2019 when he was shipped to the Pack 1 Unit in Grimes Co., Navasota, Texas.

Under the care of Dr. Dvorsu, for UTMIS, which is under Mr. Gonzalez. Both are liable for inmates at all times, to see that proper medical care is provided.

Since late 2009, Dr. Dvorsu and many in UTMIS staff were made aware of Weaver's medical needs in I 60's sick calls, letters to medical providers, warden's, security as well as calls by Weaver's family to Terrell Unit and to ombudsman in Huntsville. At 1st his needs were provided then without any type of evaluating needs were refused. Yet the same needs were provided to others.

(1)

In Estelle v Gamble - 50 L ED 2d 251, 429 US 97, 97 S Ct 285
reh den 429 US 1066, 50 L Ed 2d 785, 97 S Ct 285, in opinion
by Marshall, J., joined by Burger, Ch. J., Brennan, J. Stewart, J.
Whites J., Power, J. and Rehnquist, J., it was held that (1)
deliberate indifference to a prisoner's serious medical care
needs constituted cruel and unusual punishment under the
Eighth Amendment and gave rise to a civil rights
cause of action under 42 USC § 1983, regardless whether
the indifference was manifested by prison doctors in their
response to the prisoners needs or by prison guards in
intentionally denying or delaying access to medical care
or intentionally interfering with treatment once prescribed.

(2)

Texas Tech. Medical at the James L. Alfred unit about
2002 after 3 test prescribed "Cotton Blankets" which Dr. Owsen,
without evaluation ignored.

(3)

[429 US 116] Footnote: 'Title 42 USC § 1983 [42 USC § 1983] provides:

"Every person who, under color of any statute, ordinance,
regulation, custom, or usage, of any state or Territory, subjects,
or causes to be subjected, any Citizen of the United States or other
person within the jurisdiction thereof to the deprivation of
any rights, privileges, or immunities, secured by the Constitution
and laws, shall be liable to the party injured in an action at
law, suit in equity, or other proper proceeding for redress.

(4)

Conrader not doing proper research, missing many items
in Weaver's file should too be liable!

(2)

(5)

See Harlow v Fitzgerald, 457 U.S. 800, 73 L.Ed.2d 396, 102 S.Ct. 2727 (1982), P. 2736, [8]. Qualified or "good faith" immunity is an affirmative defense that must be pleaded by a defendant official. Comez v Toledo, 446 U.S. 635, 100 S.Ct. 1920, 64 L.Ed.2d 572. (1980) Decisions of this court have established that the "good faith" defense has both an "objective" and a "subjective" aspect. The objective element involves a presumptive knowledge of and respect for "basic, unquestioned constitutional rights." Wood v Strickland, 420 U.S. 308, 322, 95 S.Ct. 992, 1001, 43 L.Ed.2d. 214 (1975). The subjective component refers to "permissible intentions," Id. Characteristically the court has defined these elements by identifying the circumstances in which qualified immunity would NOT be available. Referring both to the objective and subjective elements we have held that qualified immunity would be defeated if an official "knew or reasonably should have known" that ~~that~~ the action he took within his sphere of official responsibility would violate the constitutional rights of the [plaintiff], or if he took the action with the malicious intention to cause a deprivation of Constitutional rights or other injury.

(6)

On P.1, of Weaver's response to State's response, file dated Nov. 28, 2018, Weaver states, Furthermore, Weaver's Claims also allege repeated efforts by the defendants to subvert his procedural due process applications to alleviate his mental anguish, torment, suffering depression and emotional distress proximately caused by their actions personally and in their official capacity, by failure to train and supervise those under them and which actually violated the 14th Amendment.

(3) Page

(7)

This should include Dr. Owens and his superior Mr. Gonzalez, for their actions and non actions.

(8)

Now let's look at The Americans with Disabilities Act Title 15 Regulation # 35.130, in its entirety even though I will only use enough to prove my point.

§ 35.130 - General prohibitions against discrimination.

(a) No qualified individual with a disability shall, on the basis of disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any public entity. (b) - (1) A public entity, in providing any aid, benefit, or service, may not, directly or through contractual, licensing, or other arrangements, on the basis of disability -

(i) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit or service; (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded to others;

(1) Deny a qualified individual with a disability the opportunity to participate in or benefit from the aid, benefit or service; (ii) Afford a qualified individual with a disability an opportunity to participate in or benefit from the aid, benefit, or service that is not equal to that afforded to others;

(At Terrell others were given "Cotton Blanket" whereas I was denied even though ordered by Provider, Texas Tech. Medical.)

(9)

Through Discovery TDCJ and LITMB should be ask to provide all of my medical records back to ~~270~~ Oct. 2009 about the time the Cotton Blankets were taken. Not only those few records that I requested from the grievance Dept. at Terrell, the law library and medical but others as well.

(10)

(16)

Under Owen v City of Independence, 445 U.S. 622, 63, L.Ed.2d 673, 100 S.Ct. 1398 (1980), P. 1407, III, [2-3], Imbler v Pachtman, 424 U.S. 417, 46 S.Ct. 984, 988, 47 L.Ed.2d 128 (1976). Its language is absolute and unqualified, no mention is made of any privileges, immunities, or defenses that may be asserted. Rather, the Act imposes liability upon "every person" who under color of law or custom, "subjects" or causes to be subjected, any citizen of the United States... to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws. And Monell held that these words were intended to encompass municipal corporations as well as natural "persons."

(17)

Richardson v McKnight, 521 U.S. 399, 117 S.Ct. 2180 (1997), 138 L.Ed.2d 540

#1 Civil Rights (K) 192 - Section 1983 basically seeks to deter state actors from using the badge of their authority to deprive individuals of their guaranteed rights and to provide related relief. 42 U.S.C.A. § 1983

#2 Civil Rights (K) 198 (3.01). Section 1983, which imposes liability only where a person acts "under color" of a state "statute, ordinance, regulation, custom, or usage can sometimes impose liability upon private individuals. 42 U.S.C.A. § 1983.

#3. Civil Rights (K) 211.1 - History that purposes that underlie government employee immunity determine whether private individuals enjoy qualified immunity from suit under § 1983. 42 U.S.C.A. § 1983.

#4. Civil Rights (K) 211.1 - Mere performance of a government ~~state~~ function does not entitle private person to qualified immunity under § 1983, especially one who performs a job without government supervision. 42 U.S.C.A. § 1983.

(5)

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(127)

In conclusion I would like to go back to Harlow, P. 2738. In part it says: By defining the limits of Qualified immunity essentials in Objective terms, we provide no license to lawless Conduct. P. 2739, where an official could be expected to know that certain conduct would violate statutory or Constitutional rights, he should be made to hesitate; and a person who suffers injury caused by such conduct may have cause of action.

Due to their Positions and experience Dr. Owusu and mister Gonzalez should know clearly established Law. Dr. Owusu knew about issues over 10 years. Mr. Gonzalez ignored plea through an attorney Mr. Robert Vinden.

(This writ done under guidance of inmate writ writers please do not hold us to the High Standards of an Atty.)

PRAYER

I pray that the Court will deny the States motion for Protective Order and Grant my earlier Motion(s) for obtaining vital materials to my case that the state clearly doesn't want the court to see.

On the 27th day of March, 2019, Weaver will mail this to the United States District Court, Southern District of Texas Through the United States Postal service.

Pack 1 Unit

2400 Wallace Pack Rd.

Navasota, TX 77868

Respectfully submitted,

Calvin E. Weaver

Calvin E. Weaver 8/2/19

EMR Medication Print Pass
Active Medications From 03/25/2019 to 03/26/2019
PACK (P1)

ALLERGIES:

OPIOID ANALGESICS | SULFA (SULFONAMIDES) | WOOL

PATIENT: WEAVER, CALVIN E MRN: 820796 DOB: 01/22/1946 HOUSING: B 6 BED 008

OMEPRAZOLE 20MG CAPSULE

KOP 1 CAPS ORAL DAILY FOR 30 DAYS.

RX DATE: 04/10/2018 01:27 PM

RUN START DATE: 03/11/2019 01:23 PM

RUN END DATE: 04/10/2019 01:23 PM

ORDERING FACILITY: TERRELL (R3)

EXPIRATION DATE: 04/10/2019 01:23 PM

ORDERING PROVIDER: OWUSU, KWABENA M.D.

MEDICATION STATUS: ACTIVE

ENTRY USER: OWUSU, KWABENA M.D.

RANITIDINE 150MG TABLET

KOP 1 TABS ORAL TWICE DAILY FOR 30 DAYS.

RX DATE: 09/21/2018 12:22 PM

RUN START DATE: 03/20/2019 12:22 PM

RUN END DATE: 04/19/2019 12:22 PM

ORDERING FACILITY: TERRELL (R3)

EXPIRATION DATE: 09/16/2019 12:22 PM

ORDERING PROVIDER: OWUSU, KWABENA M.D.

MEDICATION STATUS: ACTIVE

ENTRY USER: OWUSU, KWABENA M.D.

SODIUM CL 0.65% NAS SPRAY 45ML

KOP 1 SPRAYS INTRANASAL 3 TIMES DAILY FOR 30 DAYS.

RX DATE: 02/15/2019 08:32 AM

RUN START DATE: 03/17/2019 08:31 AM

RUN END DATE: 04/16/2019 08:31 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 05/16/2019 08:31 AM

ORDERING PROVIDER: BROUWER, RUTH E PA-C

MEDICATION STATUS: ACTIVE

ENTRY USER: BROUWER, RUTH E PA-C

TOTAL FOR WEAVER, CALVIN E

17

EMR Medication Print Pass
 Active Medications From 03/25/2019 to 03/26/2019
 PACK (P1)

ALLERGIES:

OPIOID ANALGESICS | SULFA (SULFONAMIDES) | WOOL

PATIENT: WEAVER, CALVIN E MRN: 820796 DOB: 01/22/1946 HOUSING: B 6 BED 008

FUROSEMIDE 20MG TABLET

Rx ID: 26374239

KOP 1 TABS ORAL EVERY MORNING FOR 30 DAYS.

REFILLS: 1 / 11

RX DATE: 01/30/2019 11:32 AM

RUN START DATE: 03/01/2019 11:31 AM

RUN END DATE: 03/31/2019 11:31 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 01/25/2020 11:31 AM

ORDERING PROVIDER: CHUKWUMERIJE, NDI NP

MEDICATION STATUS: ACTIVE

ENTRY USER: CHUKWUMERIJE, NDI NP

ISOSORBIDE MN 60MG ER TABLET

Rx ID: 26374282

KOP 1 TABS ORAL DAILY FOR 30 DAYS.

REFILLS: 1 / 11

RX DATE: 01/30/2019 11:32 AM

RUN START DATE: 03/01/2019 11:31 AM

RUN END DATE: 03/31/2019 11:31 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 01/25/2020 11:31 AM

ORDERING PROVIDER: CHUKWUMERIJE, NDI NP

MEDICATION STATUS: ACTIVE

ENTRY USER: CHUKWUMERIJE, NDI NP

LEVOTHYROXINE 0.15MG TABLET

Rx ID: 26374330

KOP 1 TABS ORAL DAILY FOR 30 DAYS.

REFILLS: 1 / 11

RX DATE: 01/30/2019 11:34 AM

RUN START DATE: 03/01/2019 11:33 AM

RUN END DATE: 03/31/2019 11:33 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 01/25/2020 11:33 AM

ORDERING PROVIDER: CHUKWUMERIJE, NDI NP

MEDICATION STATUS: ACTIVE

ENTRY USER: CHUKWUMERIJE, NDI NP

LISINOPRIL 20MG TABLET

Rx ID: 26374322

KOP 1 TABS ORAL DAILY FOR 30 DAYS.

REFILLS: 1 / 11

RX DATE: 01/30/2019 11:34 AM

RUN START DATE: 03/01/2019 11:33 AM

RUN END DATE: 03/31/2019 11:33 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 01/25/2020 11:33 AM

ORDERING PROVIDER: CHUKWUMERIJE, NDI NP

MEDICATION STATUS: ACTIVE

ENTRY USER: CHUKWUMERIJE, NDI NP

LORATADINE 10MG TABLET

Rx ID: 26466465

KOP 1 TABS ORAL DAILY FOR 30 DAYS.

REFILLS: 1 / 2

RX DATE: 02/15/2019 08:32 AM

RUN START DATE: 03/17/2019 08:31 AM

RUN END DATE: 04/16/2019 08:31 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 05/16/2019 08:31 AM

ORDERING PROVIDER: BROUWER, RUTH E PA-C

MEDICATION STATUS: ACTIVE

ENTRY USER: BROUWER, RUTH E PA-C

MECLIZINE 25MG TABLET

Rx ID: 26581684

KOP 1 TABS ORAL TWICE DAILY FOR 30 DAYS.

REFILLS: 0 / 1

RX DATE: 03/08/2019 01:25 PM

RUN START DATE: 03/08/2019 01:25 PM

RUN END DATE: 04/07/2019 01:25 PM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 05/07/2019 01:25 PM

ORDERING PROVIDER: LINDSEY, TARA D NP

MEDICATION STATUS: ACTIVE

ENTRY USER: LINDSEY, TARA D NP

METOPROLOL 25MG TABLET

Rx ID: 26374296

KOP 1 TABS ORAL TWICE DAILY FOR 30 DAYS.

REFILLS: 1 / 11

RX DATE: 01/30/2019 11:32 AM

RUN START DATE: 03/01/2019 11:32 AM

RUN END DATE: 03/31/2019 11:32 AM

ORDERING FACILITY: PACK (P1)

EXPIRATION DATE: 01/25/2020 11:32 AM

ORDERING PROVIDER: CHUKWUMERIJE, NDI NP

MEDICATION STATUS: ACTIVE

ENTRY USER: CHUKWUMERIJE, NDI NP

United States District Court
Southern District of Texas
Houston Division

United States Courts
Southern District of Texas
FILED

MAR 29 2019

David J. Bradley, Clerk of Court

Weaver vs Collier, et al
Plaintiffs Defendant

CIVIL ACTION
Case # 4:18-cv-1652

Dear Mr. Bradley,

3/27/19

Please find enclosed my response to States motion for Protective Order for Quana and Gonzalez and a copy of my meds prescribed as well as a list of my allergies.

OPRIAD Analgesics / sulta (Sulfonamides) / WDOL. Please add this EMR Medication Print Pass to the other evidence that I sent to the court on 2/26/19 under Fed. Rules of Evidence, Rule 201.

Thank you so much! Please make sure that every one get copies since I have no way to get copies made, being indigent.

Respectfully submitted,
Calvin E. Weaver
Calvin E. Weaver 820796
Pack 1 Unit
2400 Wallace Pack Rd,
Nacogdoches, TX, 77868

Calvin E. Weaver 820796
Pack 1 Kent
2400 Wallace Pack Rd.
Navasota TX - 77858

United States District Court
Southern District

MAR 29 2019

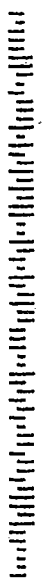
David J. Bradley, Clerk of Court

United States District Court
Southern District of Texas
P.O. Box 61010
Houston, Texas 77208

Legal Mail



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